

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

LAMONT J. HOWARD,
Petitioner,
v.
SUPERIOR COURT METROPOLITAN
DIVISION OF COUNTY OF KERN,
Respondent.

) Case No.: 1:20-cv-00933-JLT (HC)
)
) ORDER CONSTRUING RESPONSE TO ORDER
) TO SHOW CAUSE IN PART AS MOTION TO
) AMEND TO NAME PROPER RESPONDENT
)
) ORDER GRANTING MOTION TO AMEND AND
) DIRECTING CLERK OF COURT TO CHANGE
) NAME OF RESPONDENT
)

On July 13, 2020, the Court dismissed the petition with leave to amend for failure to name a proper respondent. (Doc. 6.) The Court also issued an order to show cause why the petition should not be dismissed for failure to exhaust state remedies. (Doc. 5.) On July 27, 2020, Petitioner filed a response to the order to show cause, in which Petitioner requests to amend the Respondent to Warden Sullivan. (Doc. 8.) The Court will construe this as a motion to amend to name the proper respondent and grant the motion. It appears the current warden is Warden Cates.¹

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¹ The Court notes that Warden Cates has replaced Warden Sullivan as the warden of California Correctional Institution. Rule 25 of the Federal Rules of Civil Procedure allows the successor of a public office to automatically be substituted as a party.

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Because it appears Warden Cates is a proper party (Rule 2(a) of the Rules Governing § 2254 Cases; Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th Cir. 1996); Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994)), the Clerk of Court is DIRECTED to change the name of the Respondent to Warden Cates.

IT IS SO ORDERED.

Dated: **August 10, 2020**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE